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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,910	11/16/2001	Randall L. Rayborn	1067-021	7379

7590
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01/09/2007

EXAMINER

KHAN, AMINA S

ART UNIT

PAPER NUMBER

1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	09/994,910	RAYBORN ET AL.	
	Examiner	Art Unit	
	Amina Khan	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-148 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 and 70-148 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/16/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to applicant's amendments filed on September 11, 2006.
2. Claims 1-148 are pending. Claims 1-16 and 70-148 have been withdrawn from consideration. Claim 17 has been amended.
3. Claims 17-19,23,44-58,60 and 62-65 stand rejected under 35 U.S.C. 102(e) as being anticipated by Shoemaker et al. (US 2002/0034903) for the reasons set forth in the previous office action. The rejection of the claims is maintained.
4. Claims 20-22,24-43,59 and 61 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shoemaker et al. (US Publication US 2002/0034903) for the reasons set forth in the previous office action. The rejection of the claims is maintained.
5. Claims 66-69 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shoemaker et al. (US Publication US 2002/0034903) in view of McKinney et al (US Patent 4,975,325) for the reasons set forth in the previous office action. The rejection of the claims is maintained.

Response to Arguments

6. Applicant's arguments regarding Shoemaker et al. (US 2002/0034903) have been fully considered but they are not persuasive.

The applicant argues:

"To make synthetics more comfortable, the textile industry has focused efforts on treatments for fabrics that transport moisture away from the body and allow fabrics to dry quickly. Shoemaker discloses such an attempt. Shoemaker does not, however, disclose a water-dispersible treatment agent. As a result, those applying Shoemaker's agent, as well as those wearing fabrics treated by Shoemakers' agent, may be unnecessarily exposed to dangerous compounds. Shoemaker discloses a treatment agent in "solution that may be either applied to fabrics by itself or in combination with other processing agents "(see [0028]). Shoemaker's solution is a "solution of 1,2-propanediol and water. 1,2-propanediol is used to facilitate the dissolution of the copolymer in water." (see [0028]). Shoemaker discloses that the use of 1,2-propanediol is preferred over ethanol...because it is not as flammable, it is less toxic, less carcinogenic, less of it may be used, and it has a higher boiling point and so is less fugitive" (see par. [0028]; underlining added)."

The examiner respectfully disagrees. The polyamide treatment taught by Shoemaker et al. comprises similar components to those instantly claimed. Since the composition is composed of similar ingredients it would be expected to have similar properties. While Shoemaker et al. does disclose dissolving the treatment composition in propanediol and water, the composition itself if mixed in water only would be expected to water-dispersible since it meets the claimed limitations of all the individual

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components. Regarding the toxicity of the treatment agent, this argument is irrelevant since nothing recited in the instant claims limits the toxicity of the treatment agent.

7. The applicant further argues:

"Additionally, regarding Claims 55, and the claims that depend there from, applicants submit that that Shoemaker fails to disclose the (C₂H₄O)_b limitation of Structure III. Regarding Claims 62-64, it is respectfully submitted that the Office has failed to point out where or how Shoemaker provides the claimed limitations."

The examiner asserts that a component of the copolymer is poly(oxyethylene) adipamide (page 1, paragraph 0009). The poly portion refers to the oxyethylene component suggesting multiple oxyethylene groups and therefore would meet the (C₂H₄O)_b limitation of Structure III.

Regarding the limitations taught in claim 62 and 63, the terminating group defined in claimed 63 reads on oxyethylene adipamide, which is clearly taught by Shoemaker et al. The oxyalkylene derivative limitation defined in claim 64 does not need to be met because "oxyalkylene derivative" is simply an optional component recited in the Markush group claimed in claim 63.

Accordingly, all rejections of the claims are maintained.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amina Khan whose telephone number is (571) 272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AK

Amina Khan, PhD
January 4, 2007

Lorna M. Douyon
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PRIMARY EXAMINER